



House of Representatives

General Assembly

File No. 422

January Session, 2007

Substitute House Bill No. 6856

House of Representatives, April 10, 2007

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ENABLING MUNICIPALITIES TO ESTABLISH A STORMWATER AUTHORITY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) (a) Any municipality
2 may, by ordinance adopted by its legislative body, designate any
3 existing board or commission or establish a new board or commission
4 as the stormwater authority for such municipality. If a new board or
5 commission is created, the municipality shall, by ordinance, determine
6 the number of members thereof, their compensation, if any, whether
7 such members shall be elected or appointed, the method of their
8 appointment, if appointed, and removal and their terms of office,
9 which shall be so arranged that not more than one-half of such terms
10 shall expire within any one year.

11 (b) The purposes of the authority shall be to (1) develop a
12 stormwater management program, including, but not limited to, a
13 program for construction and postconstruction site runoff control,
14 pollution prevention and the detection and elimination of discharges,

15 and (2) provide public education and outreach in the municipality
16 relating to stormwater management activities and to establish
17 procedures for public participation. In accomplishing the purposes of
18 this section the authority may plan, layout, acquire, construct,
19 reconstruct, repair, maintain, supervise and manage stormwater
20 control systems.

21 (c) The authority may adopt regulations to implement the
22 stormwater management program.

23 (d) The authority may enter into contracts with any municipal or
24 regional entity to accomplish the purposes of this section.

25 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) The stormwater authority
26 of a municipality may (1) levy and collect assessments upon the lands
27 and buildings within its jurisdiction, and (2) establish, revise and
28 collect rates, fees, charges, penalties and assessments to provide for
29 municipal stormwater management controls and stormwater
30 management education and research.

31 (b) Whenever any assessment is made as provided in this section,
32 such assessment may be (1) uniform for all users of the municipality,
33 (2) based on use, or (3) apportioned among properties benefited
34 according to regulations adopted by the authority, based on (A) area,
35 street frontage, assessed valuation of the land in the last-completed
36 grand list of the municipality, the present or permitted use of any real
37 property in the area; or (B) methods deemed appropriate by the
38 authority, including, but not limited to, a property's impervious cover
39 determined by aerial photography, site inspections, existing water
40 databases, tax assessor data, zoning classifications, soil type,
41 topography, tree canopy, property use and average trips generated by
42 the property. The authority may make reasonable reductions on a
43 specific assessment upon determination, based on regulations adopted
44 by the authority, that the condition or situation of a property requires
45 such reduction. The provisions of sections 7-139 to 7-145, inclusive, of
46 the general statutes shall be applicable to assessments under this
47 section.

48 (c) If any assessment is determined to be not valid or not
49 enforceable, a new assessment may be made in the manner provided
50 in subsection (a) of this section for the determination of the original
51 assessment. If any assessment is made which is not sufficient to cover
52 the entire cost of the work to be paid for by such assessment, a
53 supplementary assessment may be made by the authority against
54 those properties previously assessed, in an amount sufficient to pay
55 the cost of such work, provided the total of such supplementary
56 assessment and the original assessment shall not exceed the value of
57 the special benefit accruing to the property against which the benefit is
58 assessed.

59 (d) Any assessment of benefits, including any installment thereof,
60 and any charge, fee, fine or other amount that is unpaid for a period of
61 thirty days after the due date shall be delinquent, shall be subject to
62 interest and shall constitute a lien upon the premises served and a
63 charge upon the owner thereof all in the manner provided by the
64 provisions of the general statutes for delinquent property taxes.

65 Sec. 3. (NEW) (*Effective October 1, 2007*) The authority may elect to
66 defray the cost thereof by issuing bonds or other evidences of debt, or
67 from general taxation, special assessment or any combination thereof.
68 If it elects to defray any part of such cost from special assessment, it
69 may apportion and assess such part upon the lands and buildings in
70 the municipality which, in its judgment, are especially benefited
71 thereby, whether they abut on such stormwater systems or not, and
72 upon the owners of such lands and buildings, subject to the right of
73 appeal as provided in section 7-142 of the general statutes. Such
74 assessment may include a proportionate share of any expenses
75 incidental to the completion of such stormwater system, such as fees
76 and expenses of attorneys, engineers, surveyors, superintendents or
77 inspectors, the cost of any property purchased or acquired for such
78 work, interest on securities, the cost of preparing maps, plans and
79 specifications, and the cost of printing, publishing or serving
80 advertisements or notices incidental thereto. The authority may divide
81 the total territory to be benefited by any stormwater control system

82 into sections and may levy assessments against the property benefited
 83 in each section separately. In assessing benefits against the property in
 84 any section, the board may add to the cost of the part of the
 85 stormwater control system located in such section a proportionate
 86 share of the cost of any part of such system located outside the section
 87 which is useful for the operation or effectiveness of that part of such
 88 system within the section and of any of the other items of cost or
 89 expense enumerated in this section.

90 Sec. 4. (NEW) (*Effective October 1, 2007*) When any stormwater
 91 improvement or protection project or system is located within two or
 92 more municipalities, such municipalities, acting by their stormwater
 93 authority, may jointly undertake any such action as is authorized by
 94 sections 1 to 3, inclusive, of this act.

95 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) Notwithstanding the
 96 provisions of sections 22a-475 to 22a-483, inclusive, of the general
 97 statutes, the Commissioner of Environmental Protection may provide
 98 grants and loans, from any account in the Clean Water Fund, to
 99 municipalities or stormwater authorities, established pursuant to
 100 sections 1 to 4, inclusive, of this act, for the costs incurred for
 101 stormwater management programs.

102 (b) The Commissioner of Environmental Protection shall adopt
 103 regulations, in accordance with the provisions of chapter 54 of the
 104 general statutes to implement the provisions of sections 1 to 4,
 105 inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section

Statement of Legislative Commissioners:

In subsection (b) of section 1 "of" was inserted after "elimination" and in subsection (d) "both" was deleted for clarity.

ENV *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Environmental Protection	Clean Water Fund - Cost	Potential	Potential
Treasurer, Debt Serv.	GF - Cost	See Below	See Below

Note: GOBonds=General Obligation Bonds; GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	See Below	See Below	See Below

Explanation

The bill enables a municipality to establish a stormwater authority. It is anticipated that any additional administrative costs would be handled within the budgetary resources of the municipalities which choose to undertake this option.

The bill permits the issuance of bonds by the municipalities. It is unclear in the bill as to the state or municipal liability for this action.

To the degree that increasing the uses of the Department of Environmental Protection's (DEP) Clean Water Fund , causes the funds to be expended more rapidly than they otherwise would have been, there will be an increase in debt service costs in future years.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. .

OLR Bill Analysis**HB 6856*****AN ACT ENABLING MUNICIPALITIES TO ESTABLISH A STORM WATER AUTHORITY.*****SUMMARY:**

This bill permits municipalities to create stormwater authorities to (1) develop stormwater management programs and (2) educate the public about stormwater management activities. It authorizes an authority to adopt regulations to implement the program and to contract with municipal or regional entities to achieve its purposes. It authorizes the Department of Environmental Protection (DEP) commissioner to provide grants and loans from the Clean Water Fund to towns or authorities for costs incurred for stormwater management programs and requires DEP to adopt regulations implementing the bill.

EFFECTIVE DATE: October 1, 2007

STORMWATER AUTHORITIES***Establishment***

The bill allows a municipality's legislative body to adopt an ordinance designating an existing board or commission as the authority, or to create a new authority. If a town creates a new authority, it must, by ordinance, decide (1) the number of members; (2) their compensation, if any; (3) whether they are elected or appointed; (4) if appointed, the method of their appointment; (5) the method of removal; and (6) their terms of office. No more than half the members' terms may expire in any one year.

Purposes and Powers

The authority must develop a stormwater management program,

including a program for construction and post-construction site runoff control, pollution prevention, and the detection and elimination of discharges. It also must provide public education and outreach relating to stormwater management activities, and establish procedures for public participation. In carrying out its duties, the authority may plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise, and manage stormwater control systems.

Assessment of Fees

An authority may levy and collect assessments on the land and buildings in its jurisdiction, and establish, revise, and collect rates, fees, charges, penalties, and assessments to provide for stormwater management control, education, and research.

The assessment may be (1) uniform for all users; (2) based on use; or (3) apportioned among properties the stormwater programs benefit according to the authority's regulations, based on (a) area, (b) street frontage, (c) assessed valuation of land in the last-completed grand list, or (d) the present or permitted use of any real property.

If the authority apportions the assessment among properties the stormwater programs benefit, it may also make assessments by other methods it deems appropriate, including (1) a property's impervious cover as determined by aerial photography, (2) site inspections, (3) existing water databases, (4) tax assessor data, (5) zoning classifications, (6) soil type, (7) topography, (8) tree canopy, (9) property use, or (10) average trips the property generates.

The authority may reasonably reduce a specific assessment on finding, based on its regulations, that the property's situation or condition requires the reduction. The assessments are subject to notice, appeals, and lien provisions that apply to municipal public works assessments.

Invalid, Insufficient, and Late Assessments

The authority may make a new assessment in the ways specified above, if an assessment is found to be not valid or enforceable. If an

assessment is not sufficient to cover the entire cost of the work, the authority may make a supplementary assessment against the property, provided the total of the original and supplementary assessment is not more than the value of the special benefit accruing to the property.

Any assessment, including any installment, and any charge, fee, fine, or other amount unpaid 30 days after the due date is considered delinquent, subject to interest, and constitutes a lien on the premises served and a charge on the owner, as provided for by the law on delinquent property taxes.

Special Assessments

The authority may defray its costs by issuing bonds, collecting taxes, conducting special assessments, or a combination of these. If it chooses to defray its costs through special assessments, it may apportion and assess its costs on the owners of lands and buildings that the system especially benefits, whether or not the lands and buildings abut the system. These special assessments are subject to the same right of appeal as municipal public works assessments.

An assessment may include a proportionate share of project expenses incidental to a stormwater system, including (1) fees and expenses of attorneys, engineers, surveyors, superintendents, or inspectors; (2) the cost of any property acquired; (3) interest on securities; (4) the costs of preparing maps, plans, and specifications; and (5) the costs of printing, publishing, or serving advertisements or notices.

The authority may divide the total area to be benefited into sections, and levy assessments against the property in each section separately. In assessing benefits against the property in any section, the board (apparently the authority) may add to the cost of the portion of the system located in the section a proportionate share of the cost of any part of the system located outside the section that affects the operation or effectiveness of the system in the section. It may similarly apportion other costs and expenses the bill describes.

JOINT STORMWATER PROJECTS

If a stormwater improvement, protection project, or system is located in two or more municipalities, the municipalities, acting through their stormwater authority, may jointly undertake any action the bill allows. It is not clear if the towns act through their separate authorities or create a joint authority. The bill does not specify how two or more municipalities may create a joint authority.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 26 Nay 5 (03/21/2007)